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Stephen C. Ferlmann (SBN: 214881)
Chapter 7 Trustee
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TRUSTEE

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
(Sacramento Division)

In Re:

Nimfa Galvan Fernandez

2121 Evening Street
Stockton, CA 95209

ssn:xxx-xx-0211

Debtor.

Case No: 09-42992-C-7

Chapter 7 Case

DC No, SCF -1

Date: August 24, 2010

Time: 9:30 a.m

Place: Courtroom No. 35, 6th Floor
Sacramento, CA

**MOTION FOR AUTHORITY TO SELL NON-EXEMPT EQUITY
IN PERSONAL PROPERTY TO DEBTOR**

TO: The Honorable Christopher M. Klein, U.S Bankruptcy Judge:

The Chapter 7 Trustee, Stephen C. Ferlmann (the "Trustee") pursuant to 11 U.S.C §363(b) and Federal Rule of Bankruptcy Procedure 6004, respectfully moves the Court to sell to the Debtor the non-exempt equity in certain personal property in exchange for a payment of \$4,000.00, and in support respectfully represents:

1. This Court has jurisdiction of this matter under 28 U.S.C § 1334 and 157(a).
2. On October 23, 2009 the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code, in the above entitled court; Stephen C. Ferlmann is the duly appointed Trustee in the case.

1 3. The Debtor submitted schedules disclosing an interest in a 2004 Honda Civic
2 (Debtor valued at \$10,000); 1992 BMW 325I (Debtor valued at \$1,000); and 2001 Toyota
3 Landcruiser (Debtor valued at \$15,000) (cumulatively referred to as the "Property"). The total
4 value of the Property according to Debtor is \$26,000.00.

5 4. The Trustee is informed and believes that the Property is unencumbered and that
6 the Debtor has possession of the titles thereto. The Debtor's bankruptcy Schedule D reflects no
7 lien or security interest claimed by any secured creditor in the Property.

8 5. The Debtor has failed to claim the Property as exempt (having failed to indicate
9 which schedule of exemptions Debtor intended to utilize, 11 U.S.C. § 522(b)(2) or (3), let alone
10 the specific exemption provision).

11 6. Based upon an NADA value of comparable vehicles, the Trustee believes the
12 Debtor undervalued the Property by a \$4,000.00 and that equity exists even if the Debtor utilized
13 her entire "wild card exemption" and "automobile exemption" to exempt the Property.

14 7. Debtor wishes to retain the Property and desires to purchase the equity in the
15 Property from the bankruptcy estate. The Trustee seeks to maximize the recovery of assets for
16 the bankruptcy estate by avoiding the costs and risks associated with selling the Property on the
17 open market.

18 8. Accordingly, the Trustee and the Debtor has entered into an Equity Sale
19 Agreement (the "Agreement") which provides that the Debtor shall pay the bankruptcy estate the
20 total cash sum of \$4,000.00 (the "Purchase Amount") via three monthly installments for the
21 equity in the Property. A copy of the Equity Sale Agreement is attached to the List of Exhibits
22 filed concurrently herewith. The Agreement further provides that the Purchase Amount shall be
23 non-exempt property of the Debtor's bankruptcy estate. Upon payment of the entire Purchase
24 Amount, the Debtor shall be entitled to retain the Property and the Property shall cease being
25 property of the bankruptcy estate.

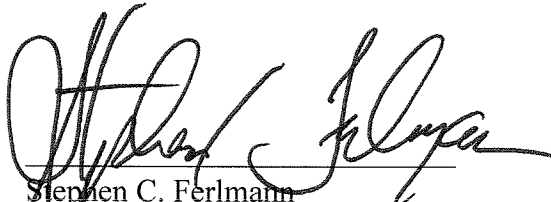
26 9. 11 U.S.C. § 363(b)(1) authorizes a trustee, after notice and hearing, to sell
27 property of the estate other than in the ordinary course of business.
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1 10. The Trustee believes that the sale of the non-exempt equity in the Property to the
2 Debtor is in the best interests of the estate and should be approved by the Court. The proposed
3 equity sale is an equitable and expeditious manner of liquidating the Property by which the
4 bankruptcy estate will eliminate risks, costs, and delays of liquidating such assets by way of
5 public auction.

6 WHEREFORE, Trustee respectfully requests that the Court approve the Motion, and
7 authorize the Trustee to enter into the proposed Equity Sale Agreement for th sale of the non-
8 exempt equity in the Property to the Debtor.

9 Dated: July 20, 2010

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Stephen C. Ferlmann
Chapter 7 Bankruptcy Trustee